

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

MADELYN THOMPSON

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692

Brief description of cause:  
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/24/2013

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 254 West Trenton Ave., Morrisville, PA 19067

Address of Defendant: 507 Prudential Rd., Horsham, PA 19044

Place of Accident, Incident or Transaction: \_\_\_\_\_

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 05/24/2013

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/24/2013

Attorney-at-Law

57100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MADELYN THOMPSON	:	
	:	
v.	:	CIVIL ACTION
	:	
NCO FINANCIAL SYSTEMS INC.	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

05/24/2013

Date

Craig Thor Kimmel

Attorney-at-law

Plaintiff, Madelyn Thompson

Attorney for

215-540-8888

Telephone

877-788-2864

FAX Number

kimmel@creditlaw.com

E-Mail Address



1                                   **IN THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **EASTERN DISTRICT OF PENNSYLVANIA**

4   MADELYN THOMPSON,                                   )

5                                   Plaintiff                                   )

6                                   v.                                   )

7                                   NCO FINANCIAL SYSTEMS, INC.,                                   )

8                                   Defendant                                   )

9                                   **Case No.:**

10                                   **COMPLAINT AND DEMAND FOR**  
11                                   **JURY TRIAL**

12                                   **(Unlawful Debt Collection Practices)**

13                                   **COMPLAINT**

14                   MADELYN THOMPSON (“Plaintiff”), by and through her attorneys,  
15                   KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL  
16                   SYSTEMS, INC. (“Defendant”):

17                                   **INTRODUCTION**

18                   1.     Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
19                   Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”), which prohibits debt collectors from  
20                   engaging in abusive, deceptive, and unfair practices.  
21  
22  
23  
24  
25

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business and has its principal office in the Commonwealth of Pennsylvania, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §§1391(b)(1) and 1392(b)(2).

## PARTIES

5. Plaintiff is a natural person residing in Morrisville, Pennsylvania 19067.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. §1692k(a), and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Defendant is a national debt collection company with its corporate

1 headquarters located at 507 Prudential Road in Horsham, Pennsylvania, 19044.

2 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §  
3 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a consumer  
4 debt.  
5

6 10. Defendant acted through its agents, employees, officers, members,  
7 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
8 representatives, and insurers.  
9

### 10 11 **FACTUAL ALLEGATIONS**

12 10. At all relevant times, Defendant was contacting Plaintiff in an attempt  
13 to collect an alleged consumer debt.  
14

15 11. Upon information and belief, the alleged debt, an auto loan, arose out  
16 of transactions, which were primarily for personal, family, or household purposes.  
17

18 12. By way of background, years ago, Plaintiff’s father-in-law obtained a  
19 purchase money loan for a 2000 Subaru automobile used for personal purposes.

20 13. In 2005, her father-in-law passed away and the vehicle was returned  
21 by the family to the lender, based upon an express representation that the equity in  
22 the vehicle would more than satisfy the remaining balance.  
23

24 14. Until February 2013, the family never heard from the lender or any  
25 representative on its behalf.

1           15. Beginning in February 2013, and continuing through April 26, 2013,  
2 Defendant placed continuous and repeated calls to Plaintiff on her home telephone  
3 in its attempts to collect a debt.  
4

5           16. Plaintiff knew it was Defendant calling because she received  
6 numerous automated messages, in which Defendant identified itself as "NCO  
7 Financial Systems."  
8

9           17. Also, Plaintiff has spoken with Defendant's collectors and they have  
10 identified themselves as calling from "NCO Financial Systems."  
11

12           18. Defendant contacted Plaintiff, on average, one (1) to two (2) times a  
13 day, calling her multiple days a week during the relevant period.  
14

15           19. Defendant never identified itself as a debt collector or gave the name  
16 of the debtor it was calling for, in messages placed.  
17

18           20. In those instances when the parties spoke, Defendant stated that it was  
19 calling to collect a debt owed by "Willie Thompson."  
20

21           21. Plaintiff's deceased father-in-law was named Willie Thompson.  
22

23           22. Plaintiff informed Defendant that her father-in-law had passed away  
24 in 2005, discussed that the vehicle was returned at that time and explained that she  
25 was not in possession of the vehicle.  
26

27           23. Defendant's collectors claimed that Plaintiff co-signed the loan for the  
28 car, and that she was responsible for the debt.  
29

1       24. When Plaintiff tried to explain to Defendant that the car had been  
2 returned to satisfy the outstanding loan, the collector became argumentative, and  
3 the matter escalated into a yelling match.  
4

5       25. Upon information and belief, Defendant never investigated Plaintiff's  
6 representation that the vehicle had been returned in 2005 and never noted that  
7 Plaintiff disputed the debt.  
8

9       26. Defendant continued to call her in its attempts to collect.

10       27. Not wanting to receive collection calls from Defendant, on numerous  
11 occasions, Plaintiff told Defendant's collectors that the calls were unwanted and to  
12 stop calling; however, Defendant continued to call.  
13

14       28. After Plaintiff told Defendant to stop calling, the continued contacts  
15 could only have been made to annoy, abuse and harass her into paying the debt, as  
16 the content of the calls did not change.  
17

18       29. Further, in its communications, Defendant threatened to take legal  
19 action if she did not make payment on the alleged debt.

20       30. Defendant did not intend to take the action threatened.

21       31. Defendant does not typically file suit.  
22

23       32. Defendant could only have filed suit knowing that it was beyond the  
24 applicable statute of limitations, and that Plaintiff had an absolute defense to the  
25 claim.



34. Defendant's actions in attempting to collect the alleged debt were  
harassing, deceptive and unfair.

8

COUNT I

24. Defendant's conduct, as detailed in the preceding paragraphs, violated  
15 U.S.C. §§1692d and 1692d(5).

a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequences of which is to harass, oppress or abuse any person in connection with the collection of a debt.

b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.

c. Defendant violated §§1692d and 1692d(5) of the FDCPA when it called Plaintiff approximately one (1) to two (2) times a day, with the intent to annoy, abuse and harass Plaintiff.

**COUNT II**

25. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692e, 1692e(2)(A) and 1692e(5).

- a. A debt collector violates §1692e of the FDCPA by using false, deceptive or misleading representations or means in connection with the collection of any debt.
- b. A debt collector violates §1692e(2)(A) of the FDCPA by falsely representing the character, amount or legal status of any debt.
- c. A debt collector violates §1692e(5) of the FDCPA by threatening to take any action that cannot legally be taken or that is not intended to be taken.
- d. Here, Defendant violated §§1692e, 1692e(2)(A), and 1692e(5) of the FDCPA by misrepresenting the character and legal status of the debt as well as threatening to take legal action when it did not intend to take that action and legally could not take that action.

**COUNT III**

26. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§1692f and 1692f(1).

- a. Section 1692f of the FDCPA prohibits debt collectors from using unfair or unconscionable means to collect or attempt to collect any debt.
- b. A debt collector violates §1692f(1) of the FDCPA by collecting an amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.
- c. Here, Defendant violated §§1692f and 1692f(1) of the FDCPA by failing to update its records to avoid the further harassment of Plaintiff; calling and attempting to collect from Plaintiff her deceased father-in-law's auto loan; yelling and arguing with Plaintiff; and failing to investigate Plaintiff's dispute of the debt.

WHEREFORE, Plaintiff, MADELYN THOMPSON, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);

1 c. All reasonable attorneys' fees, witness fees, court costs and  
2 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
3 §1693k(a)(3); and  
4

5 d. Any other relief deemed appropriate by this Honorable Court.

6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiff, MADELYN THOMPSON,  
8  
9 demands a jury trial in this case.

10 RESPECTFULLY SUBMITTED,

11 DATED:

KIMMEL & SILVERMAN, P.C.

12  
13 By:   
14 CRAIG THOR KIMMEL  
15 PA Attorney Id. No. 57100  
16 30 E. Butler Pike  
17 Ambler, PA 19002  
18 Phone: (215) 540-8888 ext. 116  
19 Fax: (877) 788-2864  
20 Email: kimmel@creditlaw.com  
21  
22  
23  
24  
25